

State Vs. Farmaan

CNR No.: DLCT01-018221-2021

SC No.: 748/2021

FIR No.: 30/21

P.S.: Daryaganj

18.09.2024

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Gaurav Bindal, Ld. Counsel for the applicant,
namely, Farmaan.

ORDER

1. The present application has been filed on behalf of the applicant/accused, namely, Farmaan (hereinafter referred to as the '*applicant/accused*'), in terms of the provisions under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as '*Cr.P.C.*')/ Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*) seeking interim bail for a period of three weeks to enable the applicant/accused to attend as well as make arrangements for the marriage ceremony of his sister, Ms. Shabana.

2. Learned Counsel for the applicant/accused outrightly submitted that the marriage ceremony of the applicant's sister, namely, Shabana is scheduled for 23.09.2023 at Idris Manzil, Loni, Ghaziabad and that the applicant is desirous to attend the said ceremony, as a member of the said family. Ld. Counsel further submitted that the father of the applicant is unable to make arrangements for the said marriage, being an old man. It was further submitted that the applicant, being male member of the family/ brother of the bride is required to take care of the necessary arrangements for the said ceremony and that his presence at the said event is incumbent for the assistance and support of his family members as there is no one

else to take care of the arrangements of the said ceremony. As per the Ld. Counsel, even otherwise, the investigation *qua* the applicant has already completed and that he is no more required for further investigation, besides there are no chances of him absconding or running away, if released on bail. Ld. Counsel further submitted that the applicant would not misuse the liberty of interim bail, if granted by this Court and is ready to abide by any terms and conditions which may be imposed by this Court. Accordingly, Ld. Counsel prayed that the present application be allowed, and the applicant may be granted interim bail.

3. *Per contra*, Ld. Addl. PP for the State contended that from the documents placed on record, the active role and complicity of the applicant/accused in the instant case can be clearly deduced. It was further submitted that the applicant is involved in crime of heinous nature and there is a possibility of intimidation of the witnesses in case he is granted bail, especially when the proceedings in the instant case are still at a nascent stage. Further as per the Ld. Addl. PP for the State, there are other family members, relatives and friends who can take care of the aforesaid marriage ceremony and that no emergent circumstances are demonstrable by the applicant which would convince this court to grant any indulgence in his favour. Accordingly, Ld. Addl. PP for the State prayed that the present application may be dismissed.

4. The arguments of Ld. Counsel for applicant/accused and that of Ld. Addl. PP for the State, heard as well as case record(s) have been thoroughly perused.

5. It is outrightly observed from a perusal of reply filed by/on behalf of the concerned IO, though, the documents related

to/factum of the marriage of Ms. Shabana, sister of the applicant, as annexed with the instant application stand verified. Further, in the said reply, it is specifically noted as under;

“...In this regard, it is submitted that, HC Rahul Tomar, No. 1595/C visited at 30 foota road, near Babu Ka Hotel, Ashok Vihar, Loni, Ghaziabad, UP and met Mr. Islam father of accused Farman and enquired the matter, who stated that he has 6 children namely (1) Arif Beg, Age 32 years, (2) Imran Age 27 years, (3) Farman. Age 24 years, (4) Reshma, Age 29 years, (5) Shabana, Age 22 Years (6) Ujma, Age 16 years. He further stated that his daughter Shabana's marriage to be held on 23/09/2024 with Mr. Jahid R/o Village Sarurpur, Distt Baghpat, UP. He produce original marriage card and copy of booking slip of marriage home. The enquiry also conducted from the neighbors, who confirmed the marriage of Ms Shabana. Enquiry also conduct from Mr. Azam Khan owner of IDRIS MANJIL, over mobile phone No. 98189243 who confirmed the booking of Marriage home for 23/09/2024 by Mr, Islam.

It is further submitted that HC Rahul Tomar also visited at the residence of Mr. Jahid S/o Ashgar Ro/ Village Sarurpur, Distt Baghpat, UP and enquiry conducted from Mr. Ashgar and neighbors and they confirmed that Marriage of Mr. Jahid to be held on 23/09/2024 with Ms Shabana D/o Mr. Islam...”

(Emphasis Supplied)

6. Notably, it is observed from a perusal of above, that besides the applicant, there are other members in his family, who can duly take care of the applicant's sister's marriage as also asserted in the statement of Mr. Islam, father of the applicant as recorded by the concerned police official. Therefore, in light of same, this Court finds it difficult to be convinced with the argument of the Ld. Counsel for the applicant/accused that there is no one else, except the applicant to take care of the said ceremony and that he presence is incumbent to make any such arrangement, as contended by the Ld. Counsel for the applicant.

Further, the contention of the Ld. Counsel for the applicant that his elder brothers are not in a position to make such arrangements as they are not residing with the applicant's father is belied from the statement of Mr. Islam, where no such averment is made/recorded. Even otherwise, this Court is cognizant of the settled law that the relief of interim bail may be granted by court(s) only under compelling circumstances (reliance placed on; *Athar Pervez v. State, 2016 SCC OnLine Del 6662*). However, in the instant case no such compelling circumstances are forthcoming. Needless to mention, attending marriage and other ceremonies of applicant's sister is not that kind of exceptional circumstance, convincing this Court to grant any indulgence at this stage.

7. Consequently, keeping in view the nature and gravity of the case/offence; the fact of applicant is involved in a crime of heinous nature; the role/complicity of the applicant and the *prima facie* incriminating evidence brought on record against the applicant; the matter is still at a nascent stage of recording of evidence of public/material witnesses; and reasonable apprehension expressed that if granted bail, the applicant might harass and/or manipulate the witnesses and tamper with the prosecution evidence, this Court **does not deem it fit to grant the relief interim bail to the applicant at this stage**. Needless to reiterate that the applicant has failed to demonstrate any compelling reason/urgency in the present proceedings persuading this Court to grant any relief of interim bail in favour of the applicant. Accordingly, the application for interim bail in respect of the applicant, namely, Farmaan is *dismissed*. However, at this stage, this Court deems it pertinent to note that any application

for custody parole may be considered by this Court, if/ as and when moved by/ on behalf of the applicant.

8. A copy of the present order be given *dasti* to the Ld. Counsel for the applicant, namely, Farmaan. Further, a **copy of this order be sent to the concerned Jail Superintendent with the direction to hand over** a copy of order to the applicant.

(Abhishek Goyal)
ASJ-03, Central District,
Tis Hazari Courts, Delhi
18.09.2024